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OFFICE OF PETITIONS

In re Application of Searle :
Application No. 10/726,110 : Decision on Petition
Filing Date: December 2, 2003 :
Attorney Docket No. 03-062-GS :

This is a decision on the petition under 37 CFR 1.181, filed August 18, 2006, to withdraw the holding of abandonment.

The petition is **granted**.

Facts:

A final Office action was mailed January 20, 2006.

The Office received a Notice of Appeal on July 24, 2006. The Notice included a certificate of mailing dated July 20, 2006.

The Notice included three sheets. The two-page "letter" included the header "NOTICE OF APPEAL" and included authorization to charge required fees to petitioner's deposit account. The deposit account was charged \$510 for an extension of time and \$250 for the Notice of Appeal.

The third page was titled, "NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES." Due to clerical error, the application number listed on the third page was "10/064,270" rather than "10/726,110." As a result, the third page was matched with the incorrect file and the fees were applied to the incorrect application.

The papers filed July 24, 2006, were not matched with the file for the instant application on or before July 27, 2006.

A Notice of Abandonment was mailed July 27, 2006. The Notice stated the application was abandoned for failure to timely file a reply.

Discussion:

Petitioner filed a reply to the final Office action July 24, 2006. The paper includes a certificate of mailing date of July 20, 2006, and complies with the requirements of 37 CFR 1.8(a). Therefore, the reply was timely.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The paper incorrectly matched with application number 10/064,270, has been transferred to the file for the instant application.

The fees incorrect applied to application number 10/064,270, have been applied to the instant application.

The Notice of Appeal filed July 24, 2006, has been entered and made of record. The two-month (2) period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

Technology Center Art Unit 3731 will be informed of the instant decision and the examiner will take further action upon petitioner filing an appeal brief or other appropriate paper.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'Charles Brantley', with a stylized, cursive flourish at the end.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions